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EXHIBIT 3
DATE 3-22-11
HB SB 405

Lane, Bob

From: Sheppard, Sam
Sent: Tuesday, March 22, 2011 9:24 AM
To: Flowers, Pat; Lane, Bob
Subject: RE: SB 405 request for information on fences as hazards to floaters

I talked with my staff and have a call into Jim DeBoer to tap his 35 plus years of knowledge. Here is what I can come up with. Most if not all of our issues regarding the intent of this bill have been minor in nature and have been taken care of with a little communication and working cooperatively with the landowners. We have requested some and received some fencing adaptations or reconfigurations on the Beaverhead and Big Hole rivers. Some of the adaptations were to add safety flagging to agricultural wires for safety purposes. Landowners have also switched from barbed wire to smooth wire and electric fence to non electric fence on the East Gallatin. Some have gone so far as to provide rubber hose insulated sections to allow floaters to easily pass under any necessary fences while floating. Some of these fences are placed across certain rivers and streams late in the summer during times of low flows to prevent livestock from crossing up or down stream of the land fencing. At lower flows these temporary fences if built correctly with floater safety in mind pose minimal risk or inconvenience to the recreating public. There is anecdotal information from the Ruby river years ago about a fence that required a portage be developed or the fence removed but that remains unconfirmed at this time.

My thoughts are that at least in R3 we are adequately addressing all issues that arise currently with the tools we have on the books and there is little need for additional legislation on this matter. I fear this bill could actually create an atmosphere or situation where landowners are less tolerant and not so willing to work cooperatively on solutions.

If I hear anything more back from Mr. DeBoer I will pass it on.

Thanks
Sam

From: Flowers, Pat
Sent: Tuesday, March 22, 2011 8:36 AM
To: Sheppard, Sam
Subject: FW: SB 405 request for information on fences as hazards to floaters

Hi Sam,

Could you respond to Bob Lane on his request. As I said, I thought we had this issue on the Ruby. Could you confirm if that is correct and where and if there are any others in the Region. I know this is short notice as Bob needs this by noon today so just do the best you can getting this info recognizing that it might not be comprehensive.

Thanks,
Pat

From: Rich, Bruce
Sent: Sunday, March 20, 2011 4:00 PM
To: Lane, Bob; FWP #Enf Captains; FWP Fish Mgrs; FWP \$FW-Reg Super
Cc: Maurier, Joe; Noonan, Art; Risley, Dave; D. Jim; Kropp, Jim; Korn, Mike
Subject: RE: SB 405 request for information on fences as hazards to floaters

Lane, Bob

From: Backes, Mike
Sent: Tuesday, March 22, 2011 8:54 AM
To: Lane, Bob
Subject: RE: SB 405 request for information on fences as hazards to floaters

Bob, here are the pictures that I discussed in yesterdays email. Did you receive yesterdays email? I was working at home on my personal computer which has email problems at times. The one picture is a barb wire fence and the other a hog panel fence. Both of these are located on the Tongue River between Tongue River Reservoir and the State Line. Hope these are useful.



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IMG_0434.JPG

Kenneth "Mike" Backes
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 Miles City, MT. 59301
 406-234-0925
 email: mibackes@mt.gov

From: Lane, Bob
Sent: Saturday, March 19, 2011 5:00 PM
To: FWP #Enf Captains; FWP #Fish Mgt; FWP \$FW-Reg Super
Cc: Rich, Bruce; Maurier, Joe; Noonan, Adam; Risley, Dave; Darling, Jim
Subject: SB 405 request for information on fences as hazards to floaters

All:

Senator Blewett has introduced SB 405 that would require landowners to replace barbed wire, electrified wire, or woven wire fences across streams that are a hazard to floaters with float-over cables or float-through gates. The bill will be heard this Tuesday, March 22, in Senate Agriculture Committee at 3 p.m.

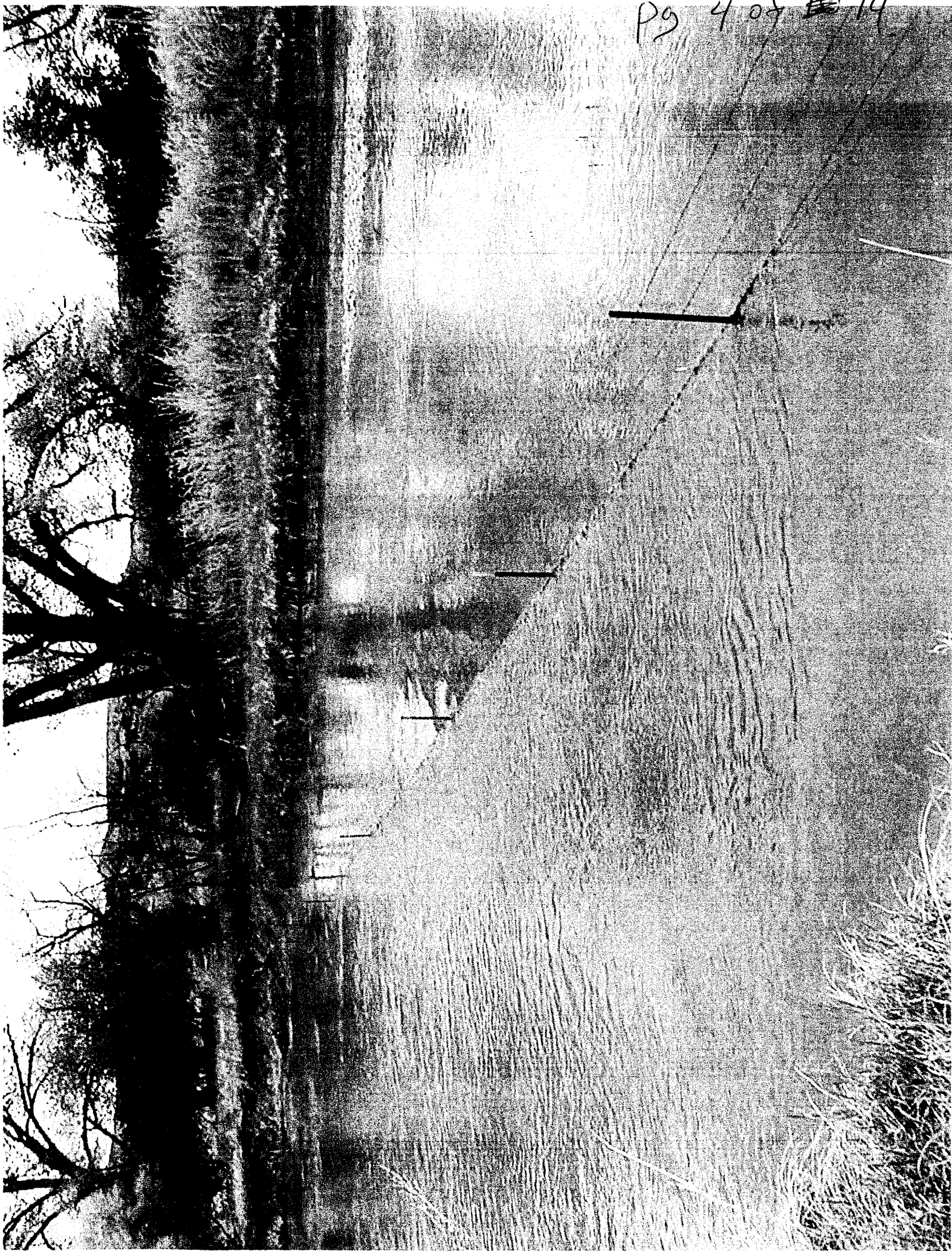
This morning he asked me if the department could gather some information about these kind of fences. Specifically he wanted any data we have or could put together about wire fences that have been a hazard to floaters, such as reports of incidents, complaints about fences as hazard to floaters, our own observation or knowledge about hazardous fences, etc. I know that this does not give us much time but whatever you could put together would be helpful in giving him a response within the limited time. If you don't have available information on the number of incidents and where, provide a general assessment of this as a problem, or not, in your region.

. If you email to me and Bruce Rich what you have by noon on Tuesday, we will put together what we have for Senator Blewett.

I am taking the liberty of sending this request to regional supervisors, warden captains, and fish managers because there is not much time. This bill has been introduced at essentially the last hour. We will be talking about a department position Monday morning. I assume the department will be informational because this idea has not been discussed or vetted with landowners and recreationists.

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Lane, Bob

From: Liknes, George
Sent: Tuesday, March 22, 2011 10:58 AM
To: Lane, Bob
Cc: Bertellotti, Gary; Martin, Mike; Rich, Bruce
Subject: RE: SB 405 request for information on fences as hazards to floaters

Bob:
 Sorry, I had meant to get back to you yesterday but needed to confer with others first. I will categorize problems and also instances in at least the last 5 years that I am aware of that have been addressed jointly by the landowner and FWP staff.

Recent Problems with fences or obstructions:

Smith River – typically a barbed wire fence and steel fence posts have been removed in recent springs down by Givens Gulch Boat Camp that would pose a hazard to floaters.

Smith River – between the mouth of Hound Creek and Eden Bridge - landowner placed barbed wire strands across a new channel that must be taken during low water conditions. A partial fence was also placed on the main channel upstream. The fence was minimally marked, but was in shallow, slower water where floaters should have an opportunity to react.

Dearborn River – Between the high bridge and Highway 200, there is a cable that crosses the river along a fence/boundary line. This cable is dangerous at some flow levels. The landowner is not one that has a good working relationship with FWP.

Older issues:

Dearborn River – Just below the mouth of the S. Fk Dearborn River on the main Dearborn. Lessee had placed barbed wire. FWP installed float gate after complaints from canoeist. No recent complaints. Downstream from this site, the rancher also typically installs panels in the river during calving, but removes them in the spring. Again no recent complaints, but if they were in there this year, they are a twisted mess!

Dearborn River – Above Highway 287 – Medicine River Canoe Club, Dearborn Ranch Co., & FWP worked to remove barbed wire fences in 2006 that were hazardous to floaters and installed float gates at 3 locations that can be raised to minimize high water and ice damage. Some repair work has been required. **These float gates incorporate sections of panels made from conduit and barbed wire up on the edges of the stream channel on gravel bars where floaters would not travel through to make them effective fences to keep livestock in a pasture, but still use PVC Conduit to direct floaters through an area that can be used at almost all flows.** I have attached photos of these types of float gates. It is important that for these to work to contain livestock that barbed wire or panels of some sort are incorporated into the edges. Choosing the site for the float gate is also extremely important.

Dearborn River – One float gate up real high in the drainage above the high bridge that was the first installed was repaired after washing out last year by the Medicine River Canoe Club.

Dearborn River – One or two more float gates in the float section between Highway 287 and the mouth have been planned for installation last summer, but were not installed because of a physical injury of the rep from the Medicine River Canoe Club. Most material is in hand.

Lower Belt Creek – I'm aware of some fences with little or no marking, but cannot remember any complaints.

Smith River – historically, several float gates have been installed at different sites. The locations made the gates non-functional in regards to containing livestock – bottom line- they didn't meet the ranchers needs. At one site, the ranch would have a barbed wire gate that could be dropped during high water allowing passage of floaters, but closed in late summer and fall. It did create problems at times because of fairly high velocities at the fence line.

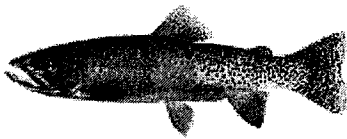
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Many smaller streams that are typically not floated have barbed wire across them that pose a hazard to kayakers or kick boaters. Most kayakers that undertake floats on these waters also carry wire cutters to be used as a last resort for the bottom strand.

I think it is important to remember that the design/solution must allow floaters to navigate through the fence safely while containing livestock as effectively as possible.

Cheers,
George

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From: Lane, Bob

Sent: Saturday, March 19, 2011 5:06 PM

To: FWP #Enf Captain; FWP #Fish Mgrs; FWP \$FW-Reg Super

Cc: Rich, Bruce; Maurie, Joe; Noonan, Art; Risley, Dave; Darling, Jim

Subject: SB 405 request for information on fences as hazards to floaters

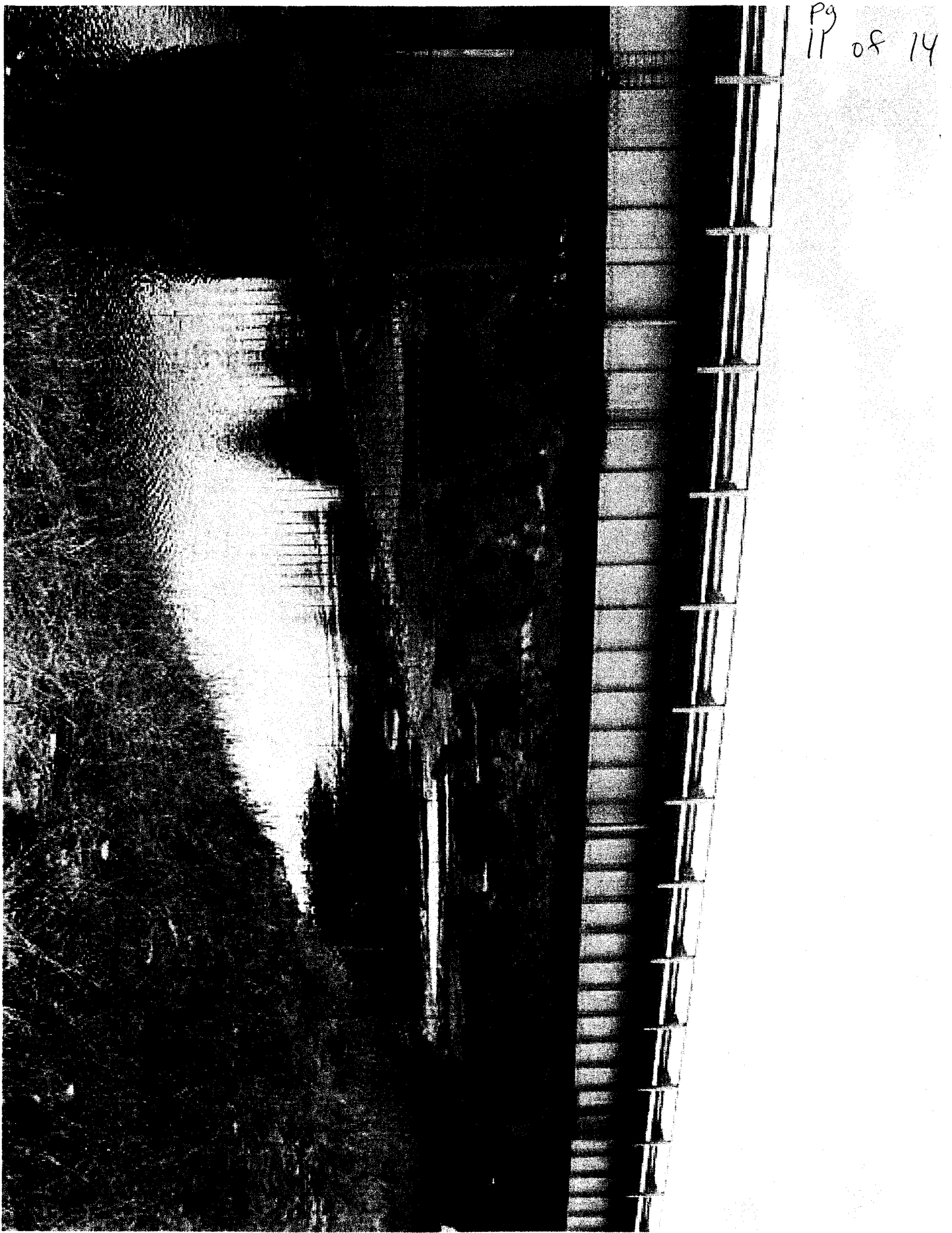
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